

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION

U.S. DISTRICT COURT  
EASTERN DISTRICT-WI  
FILED

~~ZMT OCT 18 A 11:29~~

Kevin Scheunemann

Plaintiff,

JOH V. SANFILIPPO, CLERK  
MAIL-RECD

Vs.

Court File No.: 2:11-cv-00855

MRS Associates

Defendant,

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**Motion to Strike the affidavit (Declaration) of Cindy D. Salvo from  
the court record**

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**I. Introduction**

Kevin Scheunemann (“Scheunemann”) moves to strike the affidavit/declaration of Cindy Salvo, and all hearsay documents and records attached to the affidavit from the court record.

**II. Argument of law in favor of motion to strike**

Cindy D. Salvo (hereafter, “Salvo”) attempts to testify as a firsthand witness of the documents and communications between Scheunemann and MRS Associates. Salvo is part of the Salvo law office and lawyer for MRS Associates, Salvo is not an employee or custodian of records for MRS Associates (Supplemental Aff. of Kevin Scheunemann & Declaration of Cindy D. Salvo, esq.). Salvo’s affidavit, aside from being inaccurate, violates the Wisconsin rules of evidence under Wis. Stat. § 908.03 (6) and *Palisades Collection LLC vs. Kalal* 2010 WI APP 38. Salvo is not an employee of MRS Associates and is not qualified to testify, on a firsthand knowledge basis, to the alleged business records<sup>1</sup> of MRS Associates. Salvo not only failed to testify she was a custodian of records for MRS Associates, she failed to testify she was a *qualified custodian* of

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<sup>1</sup> In this case, alleged phone call recordings by MRS Asssociates are included as the business records in question.



records for MRS Associates under the ***Palisades Collection LLC vs. Kalal*** standard.

Salvo's failure to be a *qualified custodian* of records for MRS Associates makes her entire affidavit and documents related, a nullity, and demands the affidavit, and related documents to be stricken from the court record. Salvo cannot witness for the alleged phone communication, or other business records, without testifying it was transmitted by someone with knowledge or from a *qualified custodian of records* for MRS Associates.<sup>2</sup>

### **III. The Salvo affidavit is riddled with inaccuracy**

**1.) First Salvo affidavit inaccuracy.** Salvo also attempts to download random and outdated web pages on the Internet in an attempt to portray Mr. Scheunemann in a certain light. As with downloading any random Internet page, Salvo is short on facts and has committed perjury because she did not check on the facts contained in the hearsay internet downloads. Kevin Scheunemann, currently, only owns 1 "Dairy Queen" restaurant, not 4 "Dairy Queen" restaurants, as represented in Salvo's affidavit. (Supplemental Aff. of Kevin Scheunemann).

**2.) Second Salvo affidavit inaccuracy.** Salvo attempts to imply Kevin Scheunemann "was" on the Board of Trustees for the Village of Kewaskum. That is also inaccurate. Kevin Scheunemann is "currently" serving as Kewaskum Village Trustee. (Supplemental Aff. of Kevin Scheunemann). If Salvo wanted to know about Scheunemann's employment and current public service situation, all she had to do is ask, rather than download inaccurate information on the internet and attempt to represent it as fact before this court. I'm sure Salvo could download the latest Elvis Presley sighting from

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<sup>2</sup> In an unpublished WI Court of Appeals case, *Bank of New York vs. Cano* (2010AP477), the court eloquently stated on the subject of a lawyer attempting to testify to alleged default mortgage business records, "[The affidavit]is similarly flawed... no financial documents are attached to the affidavit.... the affidavit fails to set forth the necessary facts.... The agent's affidavit does not contain any facts to show that the agent is qualified to testify ."



somewhere on the Internet, but that does not mean she can properly attest to the Elvis sighting or factually claim Elvis is alive.

**3.) Third Salvo affidavit inaccuracy.** Salvo, as an unqualified witness, attempts to impugn Scheunemann by claiming he called a MRS debt collector "scum" from a business record phone recording of MRS Associates. Scheunemann does vigorously talk about the law and law breaking by the debt collectors, with the debt collector, when debt collectors, such as MRS Associates, call about debts past the Wisconsin Statue of Repose. When debt collectors call demanding large amounts of money on an account where \$0 is due by operation of law, it is a frustrating experience for Scheunemann (Supplemental Aff. of Kevin Scheunemann). If the Salvo hearsay is truly the correct interpretation of the telephone recording, it is mild response for an abused consumer such as Scheunemann. MRS Associates is literally demanding large sums of illegal money from Scheunemann, invading Scheunemann's privacy, when nothing is honestly owed on the underlying AMEX account. When faced with extortion on this level, Scheunemann should be commended for his tremendous restraint. The likeliest explanation of what happened in this situation is: Scheunemann was pronouncing his hometown "Kewaskum" during the call and the phone line or phone recording partially cut out. No matter what the explanation, Salvo is not qualified to testify or interpret the business record recording of MRS Associates as a legitimate, credible, firsthand knowledge witness.

#### **IV. Conclusion**

For a host of reasons, the Cindy D. Salvo affidavit/declaration, and attached documentation, are required to be struck from the court record.

Respectfully submitted,

Dated in Washington County, Wisconsin this 17 day of Oct  
2011.

By: 



**Kevin Scheunemann  
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kewaskumdq@frontier.com**

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**JON W. SANFILIPPO, CLERK  
MAIL-REC'D**

**Certificate of service**

**I, Kevin Scheunemann, certify that 10/17, 2011, I mailed  
a true and correct copy of the above reply to MRS Associates  
Wisconsin legal counsel.**

**Kevin Scheunemann**

**Please send a copy of all notices and correspondence to:**

**Kevin Scheunemann  
210 Dream Catcher Dr.  
Kewaskum, WI 53040**

